IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8016 OF 2005

The State of Maharashtra ...Applicant

Vs.

Arun Narayan Kamble ...Respondent

Shri A.S.Shitole, A.P.P for the Applicant.

CORAM : A. S. OKA, J.
DATE : NOVEMBER 15, 2006.

P.C.:

1. Heard the learned A.P.P for the State in support of prayer for grant of leave.

2. The Trial Court has acquitted the Respondent of the offences punishable under section 363, 366 read with section 34 of the Indian Penal Code.

3. The case of the prosecution is that the complainant (mother of the prosecutrix) was residing alongwith her husband, her son and her daughter (prosecutrix) at Satara. According to the complainant, she was residing in a rented room alongwith her family members. As a result of the trouble caused by the Respondent and his friends to the prosecutrix, she was required to vacate the said room and shift to another room. While shifting her household articles to the

newly rented room, the complainant noticed that the Respondent-accused alongwith his two friends and her daughter disappeared from the house. On inquiry it was found that the Respondent was absconding from his house.

4. The learned Judge has considered the oral evidence of the prosecutrix and other witnesses. The learned Trial Judge held that merely because the prosecutrix was a minor at the relevant time and that she was seen in the company of the accused is by itself not sufficient to establish the offence under section 363 of the Penal Code unless there was no evidence forthcoming regarding taking or enticing by the Respondent for keeping the girl out of her lawful guardianship. The learned Trial Judge held that the deposition of the girl was not at all trustdworthy as the same was at complete variance with her statement made before police.

5. The learned Judge observed that the evidence of the girl itself shows that she herself gave company to the Respondent-accused for learning the business of marketing. The view taken by the learned Judge is a possible view which could have been taken on the basis of evidence on record. No case is made out for grant

of leave. Application is rejected.

JUDGE